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January 30, 2004
Immediate Release

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Environment Department Brokered Deal to Save State, Industry and Citizens Money Passes Key House Committee

(Santa Fe, NM) —House Bill 206, sponsored by Representative John Heaton, today received a “do pass” from the House Energy and Natural Resources Committee. This bill reflects agreements reached this week after several months of negotiations between citizens’ groups, industry, the New Mexico Environment Department (NMED) and the Oil Conservation Division (OCD) of the Energy Minerals and Natural Resources Department (EMNRD).

Outlines of the deal reached include increased public notice of permitting issues and the elimination of unnecessarily duplicative hearings. These so-called “de novo” hearings place a large financial burden on NMED, the regulated community and members of the public by requiring them to go to the expense of two full evidentiary hearings on permitting issues.

“This deal is a true compromise in the best sense of the word,” said NMED Secretary Ron Curry. “It saves the state and the public money while also beefing up public notice requirements. This will mean that local citizens are better aware when businesses are looking to open or alter existing operations.”

“This is a fair agreement that we all can live with,” said J.D. Bullington, vice president of government affairs for the Association of Commerce and Industry (ACI).

Under the agreement and proposed legislation, NMED’s permit hearing process under the state Water Quality Act (WQA) would change. Permitting actions and certifications of federal permits under the WQA will still receive a full evidentiary hearing before NMED and these actions may still be appealed to the state Water Quality Control Commission (WQCC). However, the WQCC will no longer hold an entirely new, redundant “de novo” hearing on appeal. Rather, the WQCC will simply review the record created in NMED’s hearing. The WQCC may then develop its own findings and conclusions based on the evidence contained in the record.

“Constantly ‘reinventing the wheel’ by requiring two hearings is redundant and time consuming,” said Secretary Curry. “This process took staff resources away from NMED’s core mission of protecting health and the environment.”

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“The enhanced public notice in this agreement will be good for citizens,” said Roderick Ventura, staff attorney for the New Mexico Environmental Law Center (NMELC).

New public notice requirements would include:

That a display ad summarizing the notice be published in English and, as appropriate, in Spanish in a newspaper of general circulation in the location of the proposed discharge;

that a conspicuous notice of at least two by three feet in size in English and, as appropriate, in Spanish, be posted at or near the facility for 30 days;

and that one additional notice shall be posted off the discharge site, at a place conspicuous to the public and approved by the Department.

Groups involved in the agreement include NMED, EMNRD, ACI, NMELC, Concerned Citizens for Nuclear Safety, Dairy Producers of New Mexico and Citizens for Clean Water.

For further information contact Jon Goldstein, Communications Director, NMED at (505) 827-0314.

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